



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2014-0183]

RIN 1625-AA00

Safety Zone, Ohio River, Miles 449.0 to 451.5; New Richmond, OH

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for all waters of the Ohio River, surface to bottom, extending from Ohio River mile 449.0 to mile 451.5 at New Richmond, Ohio. This temporary safety zone is necessary to protect persons and property from potential damage and safety hazards during the New Richmond Bicentennial Big Bash, which involves tossing pumpkins into the river with trebuchets, which are catapults operating under a raised counterweight system. During the period of enforcement, no vessels may be located within this proposed safety zone and entry into this area will be prohibited unless specifically authorized by the Captain of the Port Ohio Valley or other designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF

PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries are accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Petty Officer Denise Davidson, Marine Safety Detachment Cincinnati, U.S. Coast Guard; telephone 513-921-9033 x2113, e-mail Denise.M.Davidson@uscg.mil or Petty Officer John Joeckel, Marine Safety Detachment Cincinnati, U.S. Coast Guard; telephone 513-921-9033 x2109, e-mail John.R.Joeckel@uscg.mil. If you have questions on viewing or

submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is

received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number [USCG-2014-0183] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2014-0183) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West

Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Regulatory History and Information

There is no regulatory history related to the proposed safety zone or the event triggering a need for the proposed safety zone. The New Richmond Bicentennial Big Bash is an event that is planned to take place September 20, 2014. This event includes tossing pumpkins into the river using trebuchets. This event will be advertised to and throughout the local community.

Should this event and the related waterway activity become a recurring event, requiring a safety zone, the Coast Guard will include it in a future update to the list of recurring safety zones under 33 CFR 165.801

C. Basis and Purpose

The New Richmond Bicentennial Big Bash is an event that involves tossing pumpkins into the river with trebuchets. The purpose of this proposed rule is to establish a safety zone to protect persons and property from potential damage and safety hazards during the New Richmond Bicentennial Big Bash. The Coast Guard's authority for establishing safety zones is contained at 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1.

D. Discussion of Proposed Rule

The COTP Ohio Valley proposes to establish a safety zone for the waters of the Ohio River, beginning at mile marker 449.0 and ending at 451.5, to protect persons and property from potential damage and safety hazards during the New Richmond Bicentennial Big Bash, which involves tossing pumpkins into the river with trebuchets. During this event, vessels will not be allowed to enter into, depart from, or move or anchor within the area of this safety zone without permission from the COTP Ohio

Valley or designated representative. Persons or vessels requiring entry into or passage through the safety zone must request permission from the COTP Ohio Valley, or a designated representative. They may be contacted on VHF-FM Channel 13 or 16, or through Coast Guard Sector Ohio Valley at 1-800-253-7465. This proposed rule would be effective from 12:00 p.m. until 5:00 p.m. on September 20, 2014. The COTP Ohio Valley will inform the public through Broadcast Notices to Mariners, Local Notices to Mariners, and/or Marine Safety Information Bulletins as appropriate of the enforcement period for the safety zone.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The U.S. Coast Guard expects the economic impact of this proposed rule to be so minimal that a full regulatory evaluation is unnecessary. The safety zone in this proposed rule requires restricted vessel traffic transiting the Ohio River from mile 449.0 to mile 451.5 at New Richmond, Ohio from 12:00 p.m. to 5:00 p.m. on September 20, 2014. The effect of this regulation will not be significant because the event is short in duration and the safety zone restricting and governing vessel movements is limited in scope and also short in duration. Additionally, the public will be given advance notification through Federal Register, Local Notices to Mariners, Broadcast Notices to Mariners and/or Marine Safety Information Bulletins to be able to plan operations around the events in advance.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a 2.5 mile portion of the Ohio River from 12:00 p.m. to 5:00 p.m. on September 20, 2014.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This safety zone would be activated, and thus subject to enforcement, for 5 hours. Although the safety zone would apply to the entire width of the river, traffic would be allowed to pass through the regulated area from 2:00 p.m. to 3:00 p.m. with the permission of the Captain of the Port. Before the activation of the regulated area, we would issue maritime advisories widely available to users of the river.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule.

If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this proposed rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate

protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this proposed rule under Executive Order

13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying

with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves establishment of a safety zone to protect persons and property from potential damage and safety hazards during the New Richmond Bicentennial Big Bash occurring on the Ohio River from mile marker 449.0 to mile marker 451.5 for a 5-hour period on September 20, 2014. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1.

2. A new temporary safety zone § 165.T08-0183 is added to read as follows:

§ 165.T08-0183 Safety Zone; Ohio River, Miles 449.0 to 451.5, New Richmond, OH

(a) Location. The following area is a safety zone: All waters of the Ohio River, beginning at mile marker 449.0 to mile 451.5 at New Richmond, Ohio.

(b) Effective date. This section is effective and enforceable from 12:00 p.m. to 5:00 p.m. on September 20, 2014.

(c) Regulations.

(1) In accordance with the general regulations in §165.23 of this part, entry into this area is prohibited unless authorized by the Captain of the Port (COTP) Ohio Valley or a designated representative.

(2) Persons or vessels requiring entry into or passage through the area must request permission from the COTP Ohio Valley or a designated representative. COTP Ohio Valley and designated U.S. Coast Guard patrol personnel may be contacted on VHF Channel 13 or 16, or at 1-800-253-7465.

(3) All persons and vessels shall comply with the instructions of the COTP Ohio Valley and designated U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol

personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(d) Informational Broadcasts. The COTP Ohio Valley or a designated representative will inform the public through Broadcast Notices to Mariners, Local Notices to Mariners, and/or Marine Safety Information Bulletins as appropriate of the enforcement period and any changes in schedule for the safety zone.

DATED: May 02, 2014.

R. V. TIMME,
Captain, U.S. Coast Guard,
Captain of the Port Ohio Valley.

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Date: 06/09/2014]